

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY

## ORDER MODIFYING RESTRICTIONS

**CERTIFIED TRUE COPY**

In support of his current application, respondent provided letters from Todd Thomas, Ph.D., his treating psychologist and from William Keene, D.D.S., M.A., of the New Jersey Dental Association Chemical Dependency Program. Following review of the documents in support of the application, the Board has determined that it is appropriate to modify some of the conditions imposed by its order

of reinstatement. The Board finds that the modified restrictions placed on respondent's practice by this order are adequate to protect the health and welfare of the public, and that good cause exists for entry of this order. Therefore,

IT IS ON THIS 15<sup>th</sup> DAY OF MARCH, 2002

ORDERED:

1. The directive that respondent shall only practice in affiliation with another licensed dentist and under supervision is removed effective immediately.

2. Respondent shall be permitted to prescribe controlled dangerous substances for patients as required in connection with dental treatment or administer medication to patients in the course of dental treatment, in accordance with the following terms and conditions:

a) Respondent shall use sequentially numbered, triplicate prescription pads for all prescriptions written.

b) Respondent shall provide the original prescription to the patient, attach one copy of the prescription to the patient record, and submit the third copy to the Board, attention Kevin B. Earle, Executive Director, on a monthly basis no later than the fifth day of each month for all prescriptions written in the previous month. The first submission shall be due no later than April 1,

2002, for all prescriptions written in March 2002 starting on the entry date of this Order.

c) Respondent shall be required to account for each consecutively numbered prescription, regardless of whether the particular prescription was voided or not used for any purpose whatsoever.

3.(a) Respondent shall have his urine monitored on a random basis twice monthly at a laboratory facility designated by the Board to continue until further order of the Board expressly reducing or discontinuing testing. Respondent shall be provided with specific directions for the protocol of the testing procedure and the location of the laboratory facility by the Executive Director of the Board. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designed by the laboratory facility. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge.

(b) All test results shall be provided to Kevin B. Earle, Executive Director or the Board, or his designee in the event he is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical

developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c) Any failure by respondent to appear for or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Kevin B. Earle, or his designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d) In the event respondent will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing. The Board

may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

4. Respondent shall continue in counseling, at his own expense, with a Board approved mental health practitioner not less than once every two months. Respondent shall be responsible for ensuring that the above designated practitioner provides the Board with quarterly reports regarding his attendance and progress in counseling.

5. Respondent shall attend support groups, including NA or AA not less than three (3) times per week. Respondent shall provide evidence of attendance at such groups directly to the Board. If respondent has discontinued attendance at any of the support groups without obtaining approval of the Board, he shall be deemed in violation of this Order.

6. Respondent shall not possess any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribed medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than two (2) days subsequent to the

prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

7. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treating or other program as outlined herein, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. The requirement for submission of the quarterly reports to the Board shall be continued.

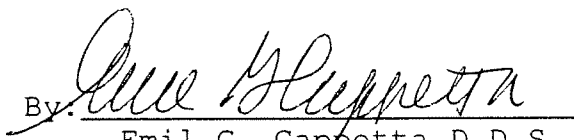
8. (a) Respondent shall be subject to an order of automatic suspension of license upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this consent order, including but not limited to report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of alcohol or drug abuse.

(b) Respondent shall have a right to apply for removal of the automatic suspension on ten (10) days notice to the Board and to the Attorney General. The Board may hold a hearing on that application before the full Board or before a committee of the Board. In the event a committee hears the application, its action shall be subject to ratification of the full Board at its next scheduled meeting. In a hearing seeking removal of the automatic suspension, any confirmed positive urine shall be presumed valid.

and respondent may only contest the chain of custody for that sample. Respondent retains the right to present evidence as to other bases for the Board's action.

9. The Board will entertain an application to modify the provisions of this order one year following its entry.

New Jersey Board of Dentistry

By:   
Emil G. Cappetta D.D.S.  
President



RECEIVED AND FILED  
WITH THE  
N.J. BOARD OF DENTISTRY  
ON 5-12-04 *da*

State of New Jersey

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May 12, 2004

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Dr. William I. Keene  
Director  
New Jersey Dental Association  
Chemical Dependency Program  
14 Main Street  
Robinsville, NJ 08691

Dear Dr. Keene:

The New Jersey State Board of Dentistry (the "Board") has had an opportunity to review your report dated November 17, 2003, recommending to reduce Dr. Joseph Brown's urine monitoring.

The Board has taken the following into consideration:

1. your notes on Dr. Brown's progress, dated November 17, 2003;
2. a letter from Montclair Counseling Center, dated October 31, 2003;
3. a copy of Dr. Brown's letter to you, dated November 9, 2003; and
4. a letter to the Board requesting reduction of monitoring from Dr. Brown, dated November 9, 2003.

The Board has agreed to reduce Dr. Brown's urine monitoring to once per month.

Very truly yours,  
BOARD OF DENTISTRY

Kevin B. Earle  
Executive Director

cc: Joseph Brown, D.M.D.

KBE/tg